

Champagne, Donald

Office Action
p. 4

From: Walker & Jocke LPA [jplaw@walkerandjocke.com]
Sent: Friday, August 25, 2006 10:24 AM
To: Champagne, Donald
Subject: 09/439,718 (D-1113)

Dear Primary Examiner Champagne,

You should be commended for your attempt to advance prosecution. The extra time you have taken to review all the issues is appreciated.

Your review concludes that all claims should be allowed and an explanation for withdrawing the June 9, 2004 Office Action be provided in a Notice of Allowance.

Applicant agrees to withdraw the petition dated June 23, 2004 contingent on Office agreement that all claims will be allowed, said explanation will be provided, and the application will be passed to issue.

Permission to enter this e-mail into the application record is granted by Applicant.

Sincerely,

Daniel D. Wasil
Reg. No. 45,303

Champagne, Donald wrote:

> Mr. Wasil,
>
> I apologize for the long time in replying to your inquiry.
> I wanted to deal with the substantive issues of this case, not merely with flaws in our record-keeping.
>
> I spoke to my boss, Supervisory Primary Examiner Eric Stamber about getting a decision on the outstanding petition (filed on 23 June 2004). Recall that this petition asked for withdrawal
> of an Office action mailed on 9 June 2004 and its purging from the record.
> This Office action was mailed after BPAI decision reversing the examiner,
> and was intended to re-open prosecution.
>
> Eric advised me that there is a substantial backlog in the Office of Petitions.
> There is nothing he or I can do about getting the petition decided.
> Furthermore, I cannot deal with the appeal brief filed on 30 December 2004 until the petition is decided.
>
> However, I have examined the case and find that the application is eligible for allowance
> under the BPAI's decision of 7 April 2004. Hence, if applicant so chooses,
> I can allow all the claims 1-43, subject only to a final check for technical errors.
>
> The 9 June 2004 Office action was mailed in clear violation of the Office's procedures.
> I would be pleased to explain that in a Notice of Allowance, and withdraw said action.
> However, I do not have the authority purge the action from the record.
>
> I hope applicant finds this helpful.
> If I can be of further help, please do feel free to ask.
>
> Sincerely,
>

> Donald L. Champagne, Primary Examiner, USPTO AU 3622
> 571-272-6717
>
>
> -----Original Message-----
> From: Daniel D. Wasil [mailto:ddw@walkerandjocke.com]
> Sent: Thursday, June 29, 2006 10:48 AM
> To: Champagne, Donald
> Cc: Stamber, Eric
> Subject: Please correct the file history for 09/439,718 (D-1113)
>
>

*Office Action
P. 5*

09 439718

> Dear Sir:

>
> I bring to your attention that the transaction history does not match
> the image file wrapper for application 09/439,718. Evidence of this
> fact can be found on the PAIR system. This difference is troubling
> because the PAIR system previously showed an accurate transaction history.
>

> The transaction history should show that a petition was filed 6/23/04
> and an Appeal Brief was filed 12/30/04. The current status should
> reflect that a decision and an Examiner's Answer are long overdue.
> Please have the PTO's docketing system corrected to indicate the
> application's true status.
>

> I thank you for your time concerning this matter.
>

> Sincerely,

> Daniel D. Wasil
>
>

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Walker & Jocke
<http://www.walkerandjocke.com>

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